IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2178 OF 2005

Rajendra P. Bhalerao ..Petitioner

Vs.

Secretary, Gokhale Education
Society & Ors. ...Respondents

Ms. S. Debharman i/b. Mihir Desai, for the Petitioner
Mr. M.B. Mehare for Respondent Nos. 1 and 2.
Ms. Mugdha Jadhav, AGP for Respondent Nos. 3 and 4.

CORAM: F.I. REBELLO, J.
DATE : 29th August, 2005

P.C.

1. Rule. Heard forthwith. The present petition is to impugn the order dated 22nd March, 2005 in Misc. Application No.23 of 2004 whereby the School Tribunal has been pleased to reject the Appeal preferred by the petitioner herein.

2. On behalf of the respondent Nos. 1 and 2 learned Counsel points out that the petitioner was appointed as Shikshan Sevak and consequently the School Tribunal will have no jursidiction considering Government Resolution dated 13th October, 2000. It is also pointed out that the petitioner was appointed against a reserved post and consequently has no right to the post.

3. The issue of jurisdiction is an issue which will have to be decided by the School Tribunal. Similarly, whether the petitioner could be continued in the post is again an issue which can be decided by the School Tribunal. The only limited issue which this Court must consider is whether the delay in preferring the appeal has been sufficiently explained. The Apex Court now has taken a view that what the Court must

consider is whether the party was interested in prosecuting the proceedings. In the instant case it appears that the teacher has been working atleast since the year 1999. There has been a delay of four months in preferring the Appeal. Thereafter an application was preferred showing cause for condonation of delay. Considering the cause shown in my opinion the same would amount to sufficient cause. Apart from that the delay is not such to disentitle the petitioner to have the appeal disposed of on merits. In the light of that the following order:-

The impugned order dated 22nd March, 2005 is set aside. The matter is remanded back to the School Tribunal to hear the parties and dispose of the matter according to law. Rule made absolute accordingly. There shall be no order as to costs.

(F.I. REBELLO, J.)